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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, HELENA DIVISION**

Core-Mark International, Inc.

Plaintiff,

v.

The Montana Board of Livestock, in its
official capacity as head of the
Montana Department of Livestock; et
al.,

Defendants.

Case No. CV-15-05-H-SEH

**DECLARATION OF TIMOTHY
BECHTOLD IN SUPPORT OF
PLAINTIFF'S MOTION FOR
COSTS AND FEES**

I, Timothy Bechtold, hereby state the following:

1. I am over 18 years of age and competent to provide this declaration.
2. I provide this Declaration in support of the Plaintiff's motion for attorney fees in the above-captioned case.

3. I am a licensed attorney admitted to practice in the State of Montana; the United States District Court for the District of Montana; the United States District Court for the District of Colorado; and the District of Columbia, Second, Third, Sixth, Ninth, and Tenth Circuit Courts of Appeals. Additionally, I have appeared *pro hac vice* in district court litigation in Alaska, Oregon, California, Utah, Kentucky, Pennsylvania, and the District of Columbia.

4. I received an A.B. from Harvard College in 1984. I received an M.S. in Environmental Studies from the University of Montana in 1992. I received a J.D. with high honors from the University of Montana in 2000 and was admitted to the Montana bar on October 6, 2000.

5. After graduation from law school, I clerked for the Honorable Donald W. Molloy, then Chief Judge of the District of Montana, for two years. During the course of the clerkship, I also had opportunity to assist Judge Molloy when he sat with the Ninth Circuit Court of Appeals.

6. After my clerkship with Judge Molloy, I entered into private practice with the law firm of Rossbach Brennan, PC, which became Rossbach Hart Bechtold, PC in November, 2003. In January, 2008, I left Rossbach Hart Bechtold, PC and formed a solo practice, Bechtold Law Firm, PLLC, where I continue to practice.

7. I was chairman of the Federal Practice Section of the Montana State Bar Association from 2004-2012, and was President of the Montana Chapter of the

Federal Bar Association from 2010-2012. I was also a member of the Local Rules Committee for the District of Montana from 2001-2006. I have served on the Board of Directors of the Montana Trial Lawyers Association since 2010, and I am a past President of the Board of the Montana Trial Lawyers Association. I am rated Martindale-Hubbard AV-Preeminent, I am a National Trial Lawyer Top 100 Trial Lawyer, and I am a Life Fellow of the American Bar Foundation.

8. My caseload includes suits involving different aspects of constitutional litigation, including voting rights, excessive force, and freedom of speech. I have guest lectured on constitutional claims at the Alexander Blewett III School of Law at the University of Montana and have presented on that topic at a number of continuing legal education seminars

9. Because I have litigated many cases that arise under federal civil rights and constitutional law, I have become knowledgeable of the time and expertise required to prosecute such cases successfully, as well as the prevailing rates of counsel in Montana who possess the expertise in litigating such cases. I have provided declarations on numerous occasions offering expert testimony on attorney fee recovery matters, I have been awarded fees and negotiated fee settlements for constitutional claims, and I have discussed prevailing market rates with other attorneys on numerous occasions.

10. I am familiar with the issues and procedural history of this matter, as well as the administrative and litigation leading up to the instant case. I have

reviewed the district court briefing on summary judgment by both the Plaintiffs and Defendants, the statements of undisputed facts, and the summary judgment order in this case. I have also reviewed the briefing presented to the Ninth Circuit and that court's order.

11. I have reviewed the time records and declarations of Mr. Baker, Mr. VanCanagan, Ms. Keck, Mr. Casillas, Ms. Lyons, and Mr. Lacny. The hour figures cited in this declaration are based on the timesheets I reviewed, but some of the totals may be adjusted or reduced based on further exercise of billing judgment by the timekeepers prior to the filing of the motion for attorney fees and costs. In my opinion, the number of hours expended on in this matter is reasonable and not excessive, particularly given that the case involved a number of constitutional claims, and involved issues that were presented to the Ninth Circuit before the matter returned to district court for further proceedings and a final ruling. While Mr. Baker, Mr. VanCanagan, and Ms. Keck performed most of the work on the case on behalf of Core-Mark, they appear to have made judicious use of attorneys in their firm, including Mr. Lacny, Ms. Lyons, and Mr. Casillas, as well as paralegals, to take advantage of cost-efficiencies and expertise.

12. It is my experience that litigating cases involving constitutional law, such as this case, is typically time-consuming and complex, even when the result sought is straightforward. I believe that the attorneys' time records and the course of the proceedings justify the hours they expended and for which they seek to

recover fees.

13. I am personally familiar with the education, expertise, experience, and reputation of Mr. VanCanagan and Mr. Baker. I represented another party in an administrative proceeding relating to this matter and worked with Mr. Baker and Mr. VanCanagan during that proceeding. Moreover, I have worked with Mr. Baker on a number of complex cases unrelated to this matter. For litigation stretching over three years, the 574.2 hours that Mr. Baker put into the case and the 154 hours Mr. VanCanagan put into the case are well within reasonable expectations.

14. I am also personally familiar with the education, expertise, experience, and reputation of Mr. Lacny, and I have worked with Mr. Lacny on several cases as well. Mr. Lacny's role in this case was limited to 4 hours with a focus assisting on qualified immunity briefing. Having Mr. Lacny contribute his expertise to the briefing on this issue is an example of Plaintiff's counsel taking advantage of specialized knowledge in their firm to represent their client efficiently.

15. While I have not worked with Mr. Casillas, Ms. Lyons, or Ms. Keck on any cases, I am generally familiar with their education, expertise, experience, and reputations. While Ms. Keck was on the case in 2015, her 108.85 hours appear to be reasonable and within expectations. Mr. Casillas and Ms. Lyons each have minimal hours and played supporting roles in the litigation.

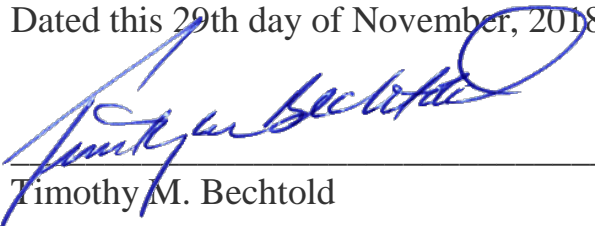
16. In this case, counsel for the Plaintiff obtained excellent results,

namely a favorable order from the Ninth Circuit as well as a favorable order from the district court regarding the constitutional infirmity of the date-stamping on liquid milk. The excellent results warrant recovery of a “fully compensatory fee” for this litigation. *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983).

17. Having filed numerous successful fee petitions, I am familiar with the rates for attorneys in Montana who practice constitutional law. While their firm charged Core-Mark less per hour than counsel are requesting in their motion, in my opinion and experience the rate of \$300 per hour requested in this motion by Mr. Baker, Mr. VanCanagan, Mr. Lacny, Ms. Keck, Mr. Casillas, and Ms. Lyons is reasonable and on the low end of rates that are appropriate for the Montana market for litigation of this type.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 29th day of November, 2018.



Timothy M. Bechtold

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing document with the clerk of the court for the United States District Court for the District of Montana, using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I hereby certify that on _____, 2018, a copy of this document was served on the following persons by the following means:

1, 2 CM/ECF
_____ Hand Delivery
_____ Mail
_____ Overnight Delivery Service
_____ Fax
_____ E-Mail

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